

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1010 - SB 1215

March 9, 2019

SUMMARY OF BILL: Removes the General Assembly's finding that some insurers deny payment for drugs that have been approved by the federal food and drug administration (FDA) when the drugs are used for indications other than those stated in the labeling approved by the FDA, known as off-label use, while other insurers with similar coverage terms do pay for off-label use. Deletes language that defines medical literature. Deletes the provision that exempts a governmentally-funded health care program, if the program requires the provision of medically necessary services. Removes restrictions on coverage of off-label drugs by insurers. Removes language that authorizes an insurance policy to cover a drug for a particular indication, if the drug is recognized for treatment of the indication in one of the standard reference compendia or medical literature.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$15,685,400

Increase Federal Expenditures - \$101,300

Increase Local Expenditures – Exceeds \$2,462,900*

Assumptions:

- The proposed legislation impacts the State Group Insurance Program's Plan. The increase in spend for off label drugs is estimated to be \$27,365,855.
- It is estimated that 52 percent of members are on the State Employee Plan, 39 percent are on the Local Education Plan and 9 percent are on the Local Government Plan.
- According to Benefits Administration, the state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of \$11,384,196 ($\$27,365,855 \times 52.0\% \times 80.0\%$).
- The state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in state expenditures of \$4,402,482 [$(\$27,365,855 \times 39.0\% \times 75.0\% \times 45.0\%) + (\$27,365,855 \times 39.0\% \times 25.0\% \times 30.0\%)$].
- According to Benefits Administration, some state plan members' insurance premiums are funded through federal dollars. It is estimated 0.89 percent of the state share of the state plan is funded with federal dollars, resulting in an increase in federal expenditures estimated to be \$101,319 ($\$11,384,196 \times 0.89\%$).

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- The total increase in state expenditures is estimated to be \$15,685,359 (\$11,384,196 + \$4,402,482 - \$101,319).
- The state does not contribute to the Local Government Plan; any increase in premiums will be entirely absorbed by the participating agencies and their members.
- It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be \$2,462,927 (\$27,365,855 x 9.0%)
- It is unknown the impact on local governments that do not opt into the Local Government Plan; therefore, the total increase in local expenditures is estimated to exceed \$2,462,927.
- The proposed legislation will not impact any programs or policies of the Division of TennCare; therefore, any fiscal impact is estimated to be not significant.
- The Department of Commerce and Insurance can enforce the proposed legislation utilizing existing resources without an increased appropriation or reduced reversion.

IMPACT TO COMMERCE:

Increase Business Revenue - \$18,249,600

Increase Business Expenditures – Less than \$18,249,600

Assumptions:

- Pharmacists will experience an increase in business revenue for providing services.
- The increase in business revenue is estimated to be \$18,249,605 (\$15,685,359 + \$101,319 + \$2,462,927).
- For companies to retain solvency, any increased expenditures will be less than the amount of increased revenues collected. Therefore, the increase in business expenditures is estimated to be less than \$18,249,605.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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